



in regulated industries with severe restrictions on disclosure of shipper information. For instance, The Interstate Commerce Act, under which FERC regulates oil pipelines, makes it “unlawful for any common carrier . . . to disclose to or permit to be acquired by any person or corporation other than the shipper or consignee . . . any information concerning the nature, kind, quantity, destination, consignee, or routing of any property . . . which information may be used to the detriment or prejudice of such shipper or consignee.”<sup>1</sup> FERC interprets this requirement to broadly prohibit “disclosure of an individual shipper’s movements,”<sup>2</sup> and violations are subject to penalties.<sup>3</sup> Yet FERC’s regulatory regime requires all interstate oil pipelines to complete and file page 700 of Form No. 6,<sup>4</sup> which publishes aggregate but anonymous shipment information.<sup>5</sup> Other disclosures of aggregate shipper information are similarly understood not to implicate the ICA’s confidentiality standards.<sup>6</sup>

Absent a compelling showing of competitive harm to the Postal Service or its customers—a showing that is not found in the Postal Service’s initial filing or in its Application for Non-Public Treatment filed with the FY 2017 Annual Compliance Report—aggregated revenue data relating to market dominant products should be made public. Producing this data aggregated by country group and shape should not identify any individual customers or their associated volumes.

---

<sup>1</sup> 49 U.S.C. App. § 15(13) (1988) (“*Provided*, That nothing in this chapter shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any State or Federal court, or to any officer or agent of the Government, of the United States’ or of any State or Territory in, the exercise of his powers”).

<sup>2</sup> *Revisions to Indexing Policies & Page 700 of Ferc Form No. 6*, 157 FERC ¶ 61047 at P 49 (2016).

<sup>3</sup> 49 U.S.C. App. § 15(14) (1988).

<sup>4</sup> 18 C.F.R. § 357.2; 157 FERC ¶ 61047 at PP 9-10 (describing page 700 as a “preliminary screening tool” used by shippers and the Commission to evaluate a rate’s reasonableness).

<sup>5</sup> *See, e.g.*, Colonial Pipeline Company, Form 6 Annual Report of Oil Pipeline Companies for the year ending 2016, Page 700 (April 18, 2017) (describing “Total Interstate Operating Revenues” of \$1,134,033,594 “Total Interstate Throughput in Barrels” of 867,983,277 and “Total Interstate Throughput in Barrel-Miles” of 802,309,685,882).

<sup>6</sup> *See, e.g.*, *SFP, L.P.*, Docket No. IS08-28-000, Settlement Agreement in Satisfaction of Protests and Complaints, at 10 (October 22, 2008).

Accordingly, PostCom urges the Commission to affirm its preliminary determination to unseal the information in question. If the Commission instead determines that this information should remain under seal, PostCom asks that the Commission explain on an item by item basis why disclosure is contrary to the statute and the public interest and specify the precise competitive harm that would befall the Postal Service or its customers from disclosure of the information.

Respectfully submitted,

*/s/ Matthew D. Field*

Matthew D. Field

Ian D. Volner

VENABLE LLP

600 Massachusetts Ave., NW

Washington, DC 20001

(202) 344-8281

[mfield@venable.com](mailto:mfield@venable.com)

[idvolner@venable.com](mailto:idvolner@venable.com)

[clboone@venable.com](mailto:clboone@venable.com)

*Counsel for Association for Postal Commerce*